

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Andrea Hughs-Baird, et al.
Appl. No.: 10/086,014
Conf. No.: 3796
Filed: February 28, 2002
Title: GAMING DEVICE HAVING IMPROVED OFFER AND ACCEPTANCE
GAME WITH MASKED OFFERS
Art Unit: 3714
Examiner: Robert E. Mosser
Docket No.: 0112300-610

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.181 TO ENTER FILED REPLY BRIEF AND
AMENDMENT TO CANCEL CLAIMS AFTER FILING OF APPEAL BRIEF**

Sir:

Appellant is submitting this Petition under 37 C.F.R. § 1.181 to enter the Reply Brief previously filed on January 28, 2008. Appellant is also submitting this Petition under 37 C.F.R. § 1.181 to enter the Amendment to Cancel Claims After Filing of Appeal Brief previously filed on January 28, 2008. This Petition is submitted in furtherance of a telephone interview conducted on April 1, 2008 between Examiner Robert Mosser, Examiner Xuan Thai and Mr. Adam H. Masia, the undersigned attorney of record.

On January 9, 2007, Appellant filed a Notice of Appeal and submitted a supporting Appeal Brief with the U.S. Patent and Trademark Office. Such a Notice of Appeal and Appeal Brief were taken from the Final Rejection dated October 13, 2006.

On July 9, 2007, the U.S. Patent and Trademark Office issued a Notice of Non-Compliant Appeal Brief.

On July 20, 2007, Appellant filed a Corrected Appeal Brief.

On November 27, 2007, the U.S. Patent and Trademark Office issued an Examiner's Answer.

On January 28, 2008, Appellant filed a Reply Brief and also filed an Amendment to Cancel Claims After Filing of Appeal Brief. This Amendment cancelled dependent Claims 6, 7, 9 and 10 (which all depended from independent Claim 1).

On March 19, 2008, the U.S. Patent and Trademark Office issued an Advisory Action After the Filing of an Appeal Brief. This Advisory Action stated that the Reply Brief and the Amendment to Cancel Claims will not be entered because the proposed cancellation of Claims 6, 7, 9 and 10 would alter the claim scope of the language "directly and individually" in the remaining claims and therefore is improper for entry.

Appellant respectfully disagrees and submits that both the Reply Brief and the Amendment to Cancel Claims are proper and should be entered. Under 37 C.F.R. 41.33(b)(1), amendments filed on or after the date of filing a brief pursuant to §41.37 may be admitted to cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding.

As explained in Appellant's Reply Brief dated January 28, 2008, Appellant disagrees with the Examiner's characterization of certain of the dependent Claims and disagrees with the Examiner's assertion that such dependent claims contradict the remaining claims. Nevertheless, as previously stated in the Reply Brief dated January 28, 2008, Appellant acknowledged that certain dependent claims, while not contracting the remaining claims, do not further limit their respective independent claim. Accordingly, to expedite prosecution of the remaining claims, Appellant properly submitted the Amendment to Cancel Claims to cancel such dependent claims under 37 C.F.R. 41.33(b)(1). The cancellation of such dependent claims would not alter the claim scope of the language "directly and individually" in Claim 1 or the remaining claims and therefore is proper for entry.

Accordingly, Appellant respectfully submits that such an Amendment to Cancel Claims After Filing of Appeal Brief and the Reply Brief dated January 28, 2008 were both proper and should be entered. If the Commission for Patents finds that such Amendment to Cancel Claims is improper, Appellant respectfully submits that at least the Reply Brief be entered.

Appellant believes that no fees are due and owing with respect to the submission of this Petition. However, if any fees are due with respect to same, Appellant authorizes the Patent Office to deduct such fees from deposit account No. 02-1818.

If the Patent Office should have any questions regarding this Petition, Appellant kindly requests that the undersigned attorney be contacted directly in an attempt to bring a prompt resolution to any potential issues associated with same.

Respectfully submitted,

BELL, BOYD & LLOYD LLP

BY 

Adam H. Masia

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Dated: April 9, 2008